

RECKITT BENCKISER

09/889031
PCT Rec'd PCT/PTO 1 1 JUL 2001

Our ref: 10375P5 WO/EAD.klo

Your ref:

Date: 5 January 2001

BY FACSIMILE AND POST

European Patent Office
International Preliminary Examination Section
Erhardtstrasse 27
D-80331 MUNICH
GERMANY

Dear Sirs

International Patent Application No PCT/GB00/00068
Reckitt & Colman Pty Limited et al.

In response to the Written Opinion dated 6 October 2000, we enclose a copy of amended pages 11 to 14 to replace pages 11 to 13 at present on file. To aid the Examiner, we also enclose a copy of each of original pages 11 to 13 showing the amendments made in manuscript.

Claims 12 to 14 have been renumbered as new independent claims 1 to 3. Consequential amendments have been made to the remaining claims. In particular original claims 1 to 11 have been deleted, although their subject matter has been retained in some cases by making them dependent on the new independent claims.

The objection of lack of novelty based on D1 was not raised against original claims 12 to 14. Therefore it is clear that these claims are novel over the disclosure of this reference. The objection was also raised against claim 21 (new claim 13). The Examiner has taken the European approach to product-by-process claims, but this approach is not valid in some of the designated States where product-by-process claims are limited to the process defined in the claim. Accordingly this claim has been retained. It is recognised that action may need to be taken in some National and Regional phases. Similarly, the omnibus claims have been retained, as these claims are acceptable in some of the designated States.

An objection of lack of inventive step has been raised against original claims 12 to 14. It is respectfully submitted that this objection has been incorrectly raised and should be withdrawn. The Examiner has suggested, in paragraph 3.8 of the Written Opinion, that the method of manufacturing a sunscreen composition as defined in claim 12 does not provide any unexpected improvement and is simply a matter of design procedures. This is not correct. The method of manufacture defined in claims 12 to 14 unexpectedly provides an advantage. It has been found by the applicant that the order of addition of ingredients has an effect on the sun protection factor (SPF) of the final composition. This is made clear on page 3 lines 27 and 28. If the composition is not prepared in accordance with the method defined in these claims, the SPF of the final composition reduces on storage at an unacceptably fast rate. This

is not recognised in the prior art. Neither D1 nor D2 discloses or suggests a method of manufacture that requires the inorganic sunscreen to be added after the emulsion has been formed.

A number of minor objections have been raised in item VII of the Written Opinion. It is proposed to deal with these during the National and Regional phases if appropriate.

We look forward to receiving a clear International Preliminary Examination Report. However, should the Examiner have any outstanding objections, we would be grateful if these could be raised in a second Written Opinion. While we recognise the Examiner's comments made in paragraph 6 of item VII of the Written Opinion, we have noted that the final date by which the International Preliminary Examination Report must be established is 14 May 2001.

EPO Form 1037 is enclosed to enable you to acknowledge receipt of this letter.

Yours faithfully
RECKITT BENCKISER plc

Elizabeth A Dickson

Enclosures

h:/patents/shared/ead/crspndnc/10375p5wo-1.doc

Reckitt Benckiser plc
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PATENT COOPERATION TREATY

RECEIVED

1 JUN 2001

RECKITT & COLMAN plc
GROUP PATENT DEPT.

PCT

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

JOHNSTONE, H.M.
Reckitt Benkiser plc
Group Patents Department
Dansom Lane
Hull HU8 7DS
GRANDE BRETAGNE

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 71.1)

Date of mailing
(day/month/year)

30.05.2001

Applicant's or agent's file reference
10375P5WO/HJ

IMPORTANT NOTIFICATION

International application No.
PCT/GB00/00068

International filing date (day/month/year)
11/01/2000

Priority date (day/month/year)
14/01/1999

Applicant

RECKITT & COLMAN PTY LIMITED et al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

CASE NUMBER

10375P5 WO

CLASS

X

CLASS 34/6/01 KH

Name and mailing address of the IPEA/



European Patent Office - P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk - Pays Bas
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Fax: +31 70 340 - 3016

Authorized officer:

Sinanovic, E

Tel. +31 70 340-2672



PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 10375P5WO/HJ	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/GB00/00068	International filing date (day/month/year) 11/01/2000	Priority date (day/month/year) 14/01/1999
International Patent Classification (IPC) or national classification and IPC A61K7/40		
Applicant RECKITT & COLMAN PTY LIMITED et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 7 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 4 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 14/07/2000	Date of completion of this report 30.05.2001
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized officer Sierra Gonzalez, M Telephone No. +31 70 340 3751 

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/GB00/00068

I. Basis of the report

1. With regard to the elements of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, pages:

1-10 as originally filed

Claims, No.:

1-15 as received on 05/01/2001 with letter of 05/01/2001

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/GB00/00068

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application.
- ☒ claims Nos. 14 15.

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 14 15 are so unclear that no meaningful opinion could be formed (*specify*):
see separate sheet
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☐ no international search report has been established for the said claims Nos. .

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

- ☐ the written form has not been furnished or does not comply with the standard.
- ☐ the computer readable form has not been furnished or does not comply with the standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims 1-12
	No: Claims 13
Inventive step (IS)	Yes: Claims
	No: Claims 1-13
Industrial applicability (IA)	Yes: Claims 1-13

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB00/00068

No: Claims

2. Citations and explanations
see separate sheet

VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:
see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:
see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB00/00068

Item III.

An opinion can not be established with regard to novelty and/or inventive step for claims 14 and 15 for the reasons as specified in Item VIII of the present communication.

Item V.

1 CITATIONS

Reference is made to the following documents:

D1: WO9749380

D2: JP10182344

2 NOVELTY (Art. 33(2) PCT)

2.1 Claim 13 can not be considered novel. A product defined by its process of production can be only considered novel as far as the product *per se* is novel. In this case, D1 discloses a sunscreen composition including several organic UV absorbers (i.e octyl methoxycinnamate, octyl salicylate and benzophenone, a insect repellent (DEET), titanium dioxide as inorganic sunscreen and a combination of surfactants (see D1 examples C and E). Consequently, D1 takes away the novelty of a sunscreen composition as defined in claim 13.

2.2 The present application does not satisfy the criterion set forth in Article 33(2) PCT, because the subject-matter of claims 13 is not new.

3 INVENTIVE STEP (Art. 33(3) PCT)

3.1 In the absence of comparative tests, the method of manufacturing a sunscreen composition as defined in claim 1 can not be considered inventive. Actually, the method of claim 1 (and following 2-12) does not seem to provide any

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB00/00068

unexpected improvements. The mere allegation that the "order of addition of ingredients affects the SPF of the final composition" (page 3, lines 27-28) is not enough to show that it provides any advantage and therefore, to prove the presence of inventive step. Besides, the term "affects" can have both positive and negative implications. As a consequence, it is considered that the method as defined in claim 1 (and following 2-12) is simply a matter of design procedures and therefore it lacks inventive step.

Item VII

- 1 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in documents D1 and D2 has not been mentioned in the description, nor have been these documents identified therein.
- 2 The vague and imprecise statement in the description on page 10, second paragraph implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them (see also the PCT Guidelines, PCT/GL/3 III, 4.3a).
- 3 Any trade mark should have been acknowledged as such.
- 4 The dependencies of claims 7, 8 and 9 appear to be incorrect. They refer to claims 6, 7 and 8 respectively instead of to claim 4.

Item VIII

As a general rule it is not allowed for the claims to rely on references to the description (Rule 6.2(a) PCT). Subject-matter of claims 14 and 15, which rely on the examples of the description in order to define the technical features of the invention, does not satisfy the requirements of clarity, contrary to Article 6 PCT.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB00/00068

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TENT COOPERATION TR

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-9 OCT 2000

RECKITT & COLMAN plc
GROUP PATENT DEPT.

From the:
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
JOHNSTONE, H.M.
Reckitt Benkiser plc
Group Patents Department
Dansom Lane
Hull HU8 7DS
GRANDE BRETAGNE

To: <i>HMJ</i>	<i>10/10/00</i>
To: MB	
To: AJW	
To: TG	<i>11/10/00</i>
To: CASE NO.	<i>1037SPS WO</i>
DIARY	<i>AK</i>
RECORDS	<i>TG</i>
INVOICE	
ACK	
RENEWALS	
Date of mailing (day/month/year)	<i>06.10.2000</i>

PCT

WRITTEN OPINION

(PCT Rule 66)

Applicant's or agent's file reference
10375P5WO/HJ

REPLY DUE

within 3 month(s)
from the above date of mailing

International application No.
PCT/GB00/00068

International filing date (day/month/year)
11/01/2000

Priority date (day/month/year)
14/01/1999

International Patent Classification (IPC) or both national classification and IPC
A61K7/40

Applicant
RECKITT & COLMAN PTY LIMITED et al.

- This written opinion is the first drawn up by this International Preliminary Examining Authority.
- This opinion contains indications relating to the following items:
 - ☒ Basis of the opinion
 - ☐ Priority
 - ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - ☐ Lack of unity of invention
 - ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - ☐ Certain document cited
 - ☒ Certain defects in the international application
 - ☒ Certain observations on the international application
- The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
- The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 14/05/2001.

Name and mailing address of the international preliminary examining authority:



European Patent Office - P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk - Pays Bas
Tel. +31 70 340 - 2040 Tx: 31 651 epo nl
Fax: +31 70 340 - 3016

Authorized officer / Examiner

Sierra Gonzalez, M

Formalities officer (incl. extension of time limits)

Sinanovic, E

Telephone No. +31 70 340 2672



WRITTEN OPINION

International application No. PCT/GB00/00068

I. Basis of the opinion

1. This opinion has been drawn on the basis of (*substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed".*);

Description, pages:

1-10 as originally filed

Claims, No.:

1-23 as originally filed

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

3. This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

4. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been and will not be examined in respect of:

- ☐ the entire international application,
- ☒ claims Nos. 22 23,

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 22 23 are so unclear that no meaningful opinion could be formed (*specify*):

WRITTEN OPINION

International application No. PCT/GB00/00068

se separate sheet

- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☐ no international search report has been established for the said claims Nos. .

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1, 4-8,10,11,21
Inventive step (IS)	Claims	1-21
Industrial applicability (IA)	Claims	

2. Citations and explanations

see separate sheet

VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Item III.

An opinion can not be established with regard to novelty and/or inventive step for claims 22 and 23 for the same reasons as specified in Item VIII of the present communication.

Item V.

1 CITATIONS

Reference is made to the following documents:

D1: WO9749380

D2: JP10182344

2 NOVELTY (Art. 33(2) PCT)

2.1 D1 discloses a sunscreen composition including several organic UV absorbers (i.e octyl methoxycinnamate, octyl salicylate and benzophenone, a insect repellent (DEET), titanium dioxide as inorganic sunscreen and a combination of surfactants, all of the mentioned compounds in a percentage as defined in claim 1 (see D1 examples C and E). Accordingly, claims 1, 4-8, 10 and 11 are not new.

2.2 Claim 21 is not considered to be novel. A product defined by its process of production can be only considered novel as far as the product per se is novel. In this case, the product is not novel (see 2.1) and therefore claim 21 lacks as well novelty over the prior art.

2.3 Therefore, the present application does not satisfy the criterion set forth in Article 33(2) PCT, because the subject-matter of claims 1, 4-8, 10,11 and 21 is not new.

3 INVENTIVE STEP (Art. 33(3) PCT)

3.1 The remaining novel subject-matter, that is the subject-matter of claims 2, 3, 9, and 12-20, cannot be considered as being inventive for the following reasons:

3.2 Document D1 is considered to represent the most relevant state of the art and discloses a composition as defined in 2.1, where the the combination of surfactants contains a fatty alcohol (i.e. cetyl alcohol).

3.3 The problem to be solved may therefore be regarded as providing further sunscreen and insect repellent compositions. The solution proposed by the present application consists of a composition including insect repellents, organic and inorganic sunscreen agents and a combination of at least two emulsifiers as defined in claim 2.

3.4 The subject-matter of claims 2 differs from the teaching of D1 in that a different combination of emulsifiers is used in the composition, namely a combination of two or more emulsifiers selected from the group consisting of fatty acid ethoxylates, fatty alcohol ethoxylates, fatty alcohols and blend of fatty alcohol ethoxylates with alkyl phenol ethoxylates.

3.5 In the absence of comparative tests it is doubtful whether any unexpected effect could be obtained by choosing two or more of the emulsifiers listed in claim 2. As acknowledged by the applicant himself, the choice of a specific combination of surfactants does not seem to be critical (see description, page 3, lines 13-14). Moreover, the different emulsifiers comprised in the compositions of claim 2 and 3 seem to be common in the art (see D2: the cosmetic composition there disclosed contains DEET, titanium dioxide and as surfactants cetanol, behenyl alcohol and glycerin monostearate, examples of surfactants as described in claims 2). Therefore, subject-matters of claim 2 is considered to be merely one of several possibilities from which the skilled person would select, in accordance with the circumstances, without the exercise of inventive skill in order to solve the problem posed.

- 3.6 For the same reasons as specified above (see 3.2 to 3.5), the subject matter of claim 3 is considered not inventive.
- 3.7 Dependent claim 9 does not appear to contain any additional features which, in combination with the features of any claim to which they refer, involve an inventive step. The subject-matter of claim 9 seems to disclose common additives in the field of insect repellent sunscreens (see D1, page 3, lines 17-31 and page 7). The addition of these additives does not appear to lead to any surprising effect.
- 3.8 The method of manufacturing a sunscreen composition as defined in claim 12 (and following 13-20) does not seem to provide any unexpected improvements. It is considered that the method as defined in claim 12 is simply a matter of design procedures and therefore it lacks inventive step.
- 3.9 The present application does therefore not satisfy the criterion set forth in Article 33(3) PCT because the subject-matter of claims 2,3 and 9, 12-20 does not involve an inventive step (Rule 65(1)(2) PCT).

Item VII

- 1 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in documents D1 and D2 is not mentioned in the description, nor are these documents identified therein.
- 2 The vague and imprecise statement in the description on page 10, second paragraph implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them (see also the PCT Guidelines, PCT/GL/3 III, 4.3a).
- 3 Any trade mark should be acknowledged as such.

- 4 If amendments are filed, it should be by way of replacement pages in the manner stipulated by Rule 66.8(a) PCT. In particular, fair copies of the amendments should be filed preferably in triplicate. Moreover, the applicant's attention is drawn to the fact that, as a consequence of Rule 66.8(a) PCT the examiner is not permitted to carry out any amendments under the PCT procedure, however minor these may be.
- 5 In order to facilitate the examination of the conformity of the amended application with the requirements of Article 34(2)(b) PCT, the applicant is requested to clearly identify the amendments carried out, no matter whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based (see also Rule 66.8(a) PCT). If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.
- 6 The applicant is requested to note that in accordance with Rule 66.4 (a) PCT the issuance of an additional Written Opinion (WO) is facultative. Moreover, as the final action in the PCT procedure is an International **Preliminary Examination Report (IPER)** and not a decision, a violation of the right to be heard cannot exist. The applicant can not therefore rely on obtaining a second WO before the IPER is issued and is requested to answer this first WO in a complete manner.

Item VIII

As a general rule it is not allowed for the claims to rely on references to the the description (Rule 6.2(a) PCT). Subject-matter of claims 22 and 23, which rely on the examples of the description in order to define the technical features of the invention, does not satisfy the the requirements of clarity, contrary to Article 6 PCT.

PCT

REC'D 31 MAY 2001

WIPO PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 10375P5WO/HJ	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/GB00/00068	International filing date (day/month/year) 11/01/2000	Priority date (day/month/year) 14/01/1999
International Patent Classification (IPC) or national classification and IPC A61K7/40		
Applicant RECKITT & COLMAN PTY LIMITED et al.		



1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 7 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 4 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 14/07/2000	Date of completion of this report 30.05.2001
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized officer Sierra Gonzalez, M Telephone No. +31 70 340 3751 

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/GB00/00068

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, pages:

1-10 as originally filed

Claims, No.:

1-15 as received on 05/01/2001 with letter of 05/01/2001

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
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4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

International application No. PCT/GB00/00068

6. Additional observations, if necessary:

☒ claims Nos. 14 15.

Form PCT/IPEA/409 (Boxes I-VIII, Sheet 2) (July 1998)

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB00/00068

No: Claims

2. Citations and explanations
see separate sheet

VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:
see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:
see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB00/00068

Item III.

An opinion can not be established with regard to novelty and/or inventive step for claims 14 and 15 for the reasons as specified in Item VIII of the present communication.

Item V.

1 CITATIONS

Reference is made to the following documents:

D1: WO9749380

D2: JP10182344

2 NOVELTY (Art. 33(2) PCT)

- 2.1 Claim 13 can not be considered novel. A product defined by its process of production can be only considered novel as far as the product per se is novel. In this case, D1 discloses a sunscreen composition including several organic UV absorbers (i.e octyl methoxycinnamate, octyl salicylate and benzophenone, a insect repellent (DEET), titanium dioxide as inorganic sunscreen and a combination of surfactants (see D1 examples C and E). Consequently, D1 takes away the novelty of a sunscreen composition as defined in claim 13.
- 2.2 The present application does not satisfy the criterion set forth in Article 33(2) PCT, because the subject-matter of claims 13 is not new.

3 INVENTIVE STEP (Art. 33(3) PCT)

- 3.1 In the absence of comparative tests, the method of manufacturing a sunscreen composition as defined in claim 1 can not be considered inventive. Actually, the method of claim 1 (and following 2-12) does not seem to provide any

unexpected improvements. The mere allegation that the "order of addition of ingredients affects the SPF of the final composition" (page 3, lines 27-28) is not enough to show that it provides any advantage and therefore, to prove the presence of inventive step. Besides, the term "affects" can have both positive and negative implications. As a consequence, it is considered that the method as defined in claim 1 (and following 2-12) is simply a matter of design procedures and therefore it lacks inventive step.

Item VII

- 1 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in documents D1 and D2 has not been mentioned in the description, nor have been these documents identified therein.
- 2 The vague and imprecise statement in the description on page 10, second paragraph implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them (see also the PCT Guidelines, PCT/GL/3 III, 4.3a).
- 3 Any trade mark should have been acknowledged as such.
- 4 The dependencies of claims 7, 8 and 9 appear to be incorrect. They refer to claims 6, 7 and 8 respectively instead of to claim 4.

Item VIII

As a general rule it is not allowed for the claims to rely on references to the description (Rule 6.2(a) PCT). Subject-matter of claims 14 and 15, which rely on the examples of the description in order to define the technical features of the invention, does not satisfy the requirements of clarity, contrary to Article 6 PCT.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB00/00068

CLAIMS

1. A method of manufacturing a sunscreen composition including one or more insect repellents, one or more organic
5 UV sunscreens agents and one or more inorganic sunscreens agents, the composition being in the form of an emulsion having an oil phase and a water phase characterised in that the water phase and oil phase are prepared and combined to form an emulsion prior to addition of at least
10 one inorganic compound which is used as a sunscreens agent.

2. A method of manufacturing a sunscreen composition including the steps of:
15 (a) preparing a water phase including water and thickener;
(b) preparing an oil phase including at least two emulsifiers, at least one insect repellent and at least one organic UV sunscreens agent;
(c) combining said water phase and oil phase to form an
20 emulsion; and
(d) adding at least one inorganic compound which is used as a sunscreens agent.

3. A method of manufacturing a sunscreen composition in
25 the form of an oil-in-water emulsion including the steps of:
(a) preparing a water phase by combining water and thickener while stirring and heating,
(b) preparing an oil phase by combining at least two emulsifiers, at least one insect repellent, optionally
30 a film former and at least one organic UV sunscreens agent while stirring and heating,

- (c) adding the oil phase to the water phase while stirring,
 - (d) optionally adding a chelating agent and a neutraliser to the combined water and oil phases; and
 - (e) adding at least one inorganic compound which is used as
- 5 a sunscreensing agent to the combined water and oil phases while stirring.

4. The method of claim 3 wherein the water phase of step (a) and the oil phase of step (b) are heated to a

10 temperature in the range of 75-80°C respectively before combining in step (c).

5. The method of any one of claims 2 to 4 wherein at least two emulsifiers are selected from the group consisting of

15 fatty acid ethoxylates, fatty alcohol ethoxylates, fatty alcohols and blends of fatty alcohol ethoxylates with alkyl phenol ethoxylates.

6. The method of any one of claims 2 to 4 wherein at least

20 two emulsifiers are selected from the group consisting of glycerol monostearate, ethoxy stearyl alcohol, C₁₆₋₁₈ fatty alcohols and blends of cetostearyl alcohol and PEG stearate.

7. The method of any one of claims 1 to 6 wherein the

25 inorganic compound is zinc oxide or titanium dioxide, preferably micronised zinc oxide or micronised titanium dioxide, most preferably micronised titanium dioxide.

8. The method of any one of claims 1 to 7 wherein the

30 insect repellent is N,N-diethyl-m-toluamide, dipropylpyridine-2,5-dicarboxylate or a mixture thereof.

9. The method of any one of claims 1 to 8 wherein the organic UV sunscreens agent is oxybenzone, octylmethoxycinnamate or a mixture thereof.

5

10. The method of any one of claims 1 to 9 wherein the composition includes 3-9% by weight in total of at least two emulsifiers, based on the total weight of the composition.

10 11. The method of claim 10 wherein the composition includes by weight, based on the total weight of the composition,

(a) 1-5%, preferably 2-4%, more preferably 3% inorganic compound as a sunscreens agent,

(b) 4-20%, preferably 4-15%, more preferably 5-10% insect repellent and

15

(c) 3-10% each of one or more organic UV sunscreens agents.

12. The method of claim 10 or 11 wherein the composition further includes:

20

(d) 7% in total emulsifiers

(e) up to 5%, preferably 1-5%, more preferably 3% film former

(f) up to 0.25%, preferably 0.05-0.25%, more preferably 0.15% thickener.

25

(g) up to 0.3%, preferably 0.1-0.3%, more preferably 0.15% neutraliser

(h) up to 0.3%, preferably 0.1-0.3%, more preferably 0.2% chelating agent

30 (i) up to 2.5% of at least one of preservative, perfume and moisturiser.

13. A sunscreen composition manufactured according to the method of any one of claims 1 to 12.

5 14. A sunscreen composition, including at least two emulsifiers as hereinbefore described with reference to the examples.

15. A method of manufacturing a sunscreen composition as
10 hereinbefore described with reference to the examples.

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AL	Albania	ES	Spain	LS	Lesotho	SI	Slovenia
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EE	Estonia						

INTERNATIONAL SEARCH REPORT

In national Application No
PCT/GB 00/00068

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61K7/40 A61K7/42

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 A61K

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 97 49380 A (JOHNSON & SON INC S C) 31 December 1997 (1997-12-31)	1,4-8, 10,11
Y	examples C,E	1-11,22
Y	DATABASE CHEMABS 'Online! CHEMICAL ABSTRACTS SERVICE, COLUMBUS, OHIO, US INAKAWA, TAKASHI: "Oil-in-water skin cosmetics containing insect repellents and UV scattering agents" retrieved from STN Database accession no. 129:85847 CA XP002132251 abstract & JP 10 182344 A (KOSEI CO., LTD., JAPAN) 7 July 1998 (1998-07-07)	1-11,22
	-/-	

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents :

- "A" document defining the general state of the art which is not considered to be of particular relevance
- "E" earlier document but published on or after the international filing date
- "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- "O" document referring to an oral disclosure, use, exhibition or other means
- "P" document published prior to the international filing date but later than the priority date claimed

- "T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- "X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- "Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- "&" document member of the same patent family

Date of the actual completion of the international search

6 March 2000

Date of mailing of the international search report

31/03/2000

Name and mailing address of the ISA

European Patent Office, P.B. 6818 Patentaan 2
NL - 2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
Fax (+31-70) 340-3010

Authorized officer

Sierra Gonzalez, N

INTERNATIONAL SEARCH REPORT

Int. Application No.

PCT/GB 00/00068

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	<p>CHEMICAL ABSTRACTS, vol. 125, no. 2, 8 July 1996 (1996-07-08) Columbus, Ohio, US; abstract no. 18703, KURODA, AKIHIRO ET AL: "Topical agents containing silicones and UV protectors and/or insect repellents for skin protection" XP002132250 abstract & JP 08 059447 A (KANEBO LTD, JAPAN) 5 March 1996 (1996-03-05)</p>	1-23

INTERNATIONAL SEARCH REPORT

Information on patent family members

In International Application No

PCT/GB 00/00068

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 9749380 A	31-12-1997	US 5716602 A	10-02-1998
		AU 713810 B	09-12-1999
		AU 3412097 A	14-01-1998
		BR 9709965 A	10-08-1999
		CA 2259292 A	31-12-1997
		CN 1226156 A	18-08-1999
		CZ 9804301 A	14-07-1999
		EP 0910335 A	28-04-1999
		PL 330917 A	07-06-1999
JP 10182344 A	07-07-1998	NONE	
JP 8059447 A	05-03-1996	NONE	

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 10375P5W0/HJ	FOR FURTHER ACTION see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, Item 5 below.	
International application No. PCT/GB 00/ 00068	International filing date (day/month/year) 11/01/2000	(Earliest) Priority Date (day/month/year) 14/01/1999
Applicant RECKITT & COLMAN PTY LIMITED et al.		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 3 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

- a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.



the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international search was carried out on the basis of the sequence listing :



contained in the international application in written form.



filed together with the international application in computer readable form.



furnished subsequently to this Authority in written form.



furnished subsequently to this Authority in computer readable form.



the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.



the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2. ☐ Certain claims were found unsearchable (See Box I).

3. ☐ Unity of invention is lacking (see Box II).

4. With regard to the title,



the text is approved as submitted by the applicant.



the text has been established by this Authority to read as follows:

5. With regard to the abstract,



the text is approved as submitted by the applicant.



the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the drawings to be published with the abstract is Figure No.



as suggested by the applicant.



because the applicant failed to suggest a figure.



because this figure better characterizes the invention.



None of the figures.

INTERNATIONAL SEARCH REPORT

International Application No.

PCN 00/00068

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61K7/40 A61K7/42

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 A61K

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

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Date of the actual completion of the international search

6 March 2000

Date of mailing of the international search report

31/03/2000

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2
NL - 2280 HV Rijswijk
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Fax (+31-70) 340-3016

Authorized officer

Sierra Gonzalez, M

INTERNATIONAL SEARCH REPORT

International Application No.

PC 08 00/00068

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	<p>CHEMICAL ABSTRACTS, vol. 125, no. 2, 8 July 1996 (1996-07-08) Columbus, Ohio, US; abstract no. 18703, KURODA, AKIHIRO ET AL: "Topical agents containing silicones and UV protectors and/or insect repellents for skin protection" XP002132250 abstract & JP 08 059447 A (KANEBO LTD, JAPAN) 5 March 1996 (1996-03-05)</p>	1-23

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/IB 00/00068

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 9749380 A	31-12-1997	US 5716602 A AU 713810 B AU 3412097 A BR 9709965 A CA 2259292 A CN 1226156 A CZ 9804301 A EP 0910335 A PL 330917 A	10-02-1998 09-12-1999 14-01-1998 10-08-1999 31-12-1997 18-08-1999 14-07-1999 28-04-1999 07-06-1999
JP 10182344 A	07-07-1998	NONE	
JP 8059447 A	05-03-1996	NONE	

F. INT COOPERATION TREA

PCT

From the INTERNATIONAL BUREAU

ION OF THE RECORDING
OF A CHANGERule 92bis.1 and
the Instructions, Section 422)month/year)
25.07.00)file reference
IJon No.
168

To:

JOHNSTONE, Helen, Margaret
Reckitt Benckiser plc
Group Patents Dept.
Dansom Lane
Hull HU8 7DS
ROYAUME-UNI

IMPORTANT NOTIFICATION

International filing date (day/month/year)
11 January 2000 (11.01.00)

ations appeared on record concerning:

☐ the inventor ☐ the agent ☐ the common representativeLMAN PRODUCTS LIMITED
1 Lane
W
mState of Nationality
GBState of Residence
GB

Telephone No.

Facsimile No.

Teleprinter No.

Bureau hereby notifies the applicant that the following change has been recorded concerning:

☐ the name ☒ the address ☐ the nationality ☐ the residence

LMAN PRODUCTS LIMITED

3HD
mState of Nationality
GBState of Residence
GB

Telephone No.

Facsimile No.

Teleprinter No.

ons, if necessary:

fication has been sent to:

Office

nal Searching Authority

nal Preliminary Examining Authority

☒ the designated Offices concerned
☐ the elected Offices concerned
☐ other:International Bureau of WIPO
chemin des Colombettes
Geneva 20, Switzerland

740.14.35

Authorized officer

R. Chrem

Telephone No.: (41-22) 338.83.38

h 1994)

003428753

INTERNATIONAL COOPERATION TREATY

PCT

NOTIFICATION OF THE RECORDING
OF A CHANGE(PCT Rule 92bis.1 and
Administrative Instructions, Section 422)

From the INTERNATIONAL BUREAU

To:

JOHNSTONE, Helen, Margaret
Reckitt Benckiser plc
Group Patents Dept.
Dansom Lane
Hull HU8 7DS
ROYAUME-UNI

Date of mailing (day/month/year) 13 August 2001 (13.08.01)	IMPORTANT NOTIFICATION
Applicant's or agent's file reference 10375P5WO/HJ	
International application No. PCT/GB00/00068	International filing date (day/month/year) 11 January 2000 (11.01.00)

1. The following indications appeared on record concerning:		
<input checked="" type="checkbox"/> the applicant	<input type="checkbox"/> the inventor	<input type="checkbox"/> the agent <input type="checkbox"/> the common representative
Name and Address RECKITT & COLMAN PTY LIMITED 44 Wharf Road West Ryde New South Wales 2114 Australia	State of Nationality AU	State of Residence AU
	Telephone No.	
	Facsimile No.	
	Teleprinter No.	
2. The International Bureau hereby notifies the applicant that the following change has been recorded concerning:		
<input type="checkbox"/> the person	<input checked="" type="checkbox"/> the name	<input type="checkbox"/> the address <input type="checkbox"/> the nationality <input type="checkbox"/> the residence
Name and Address RECKITT BENCKISER (AUSTRALIA) PTY LIMITED 44 Wharf Road West Ryde New South Wales 2114 Australia	State of Nationality AU	State of Residence AU
	Telephone No.	
	Facsimile No.	
	Teleprinter No.	
3. Further observations, if necessary:		
4. A copy of this notification has been sent to:		
<input checked="" type="checkbox"/> the receiving Office	<input type="checkbox"/> the designated Offices concerned	
<input type="checkbox"/> the International Searching Authority	<input checked="" type="checkbox"/> the elected Offices concerned	
<input checked="" type="checkbox"/> the International Preliminary Examining Authority	<input type="checkbox"/> other:	

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer R. Chrem
Facsimile No.: (41-22) 740.14.35	Telephone No.: (41-22) 338.83.38

P. ENT COOPERATION TREATY

PCT

NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Assistant Commissioner for Patents
United States Patent and Trademark
Office
Box PCT
Washington, D.C.20231
ETATS-UNIS D'AMERIQUE

in its capacity as elected Office

Date of mailing (day/month/year) 15 August 2000 (15.08.00)	Applicant's or agent's file reference 10375P5WO/HJ
International application No. PCT/GB00/00068	Priority date (day/month/year) 14 January 1999 (14.01.99)
International filing date (day/month/year) 11 January 2000 (11.01.00)	
Applicant FRIEL, Michael, Christopher et al	

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:

14 July 2000 (14.07.00)

☐ in a notice effecting later election filed with the International Bureau on:
2. The election ☒ was
☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No.: (41-22) 740.14.35	Authorized officer Pascal Piriou Telephone No.: (41-22) 338.83.38
--	--